

DUANE MORRIS LLP

Hyman L. Schaffer

Fran M. Jacobs

Gregory P. Gulia

Brian Damiano

1540 Broadway

New York, New York 10036

(212) 692-1000

*Attorneys for Defendants*

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 2/20/08

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
SOFTWARE AG, INC. and SOFTWARE AG,

08 CV 00389 (CM) (FM)

Plaintiffs,

-against-

CONSIST SOFTWARE SOLUTIONS, INC.,  
f/k/a CONSIST INTERNATIONAL, INC.  
and NATALIO FRIDMAN,

NOTICE OF  
MOTION TO STRIKE

Defendants.

-----X

C O U N S E L O R S :

PLEASE TAKE NOTICE that, upon the annexed Declaration of Brian Damiano dated February 19, 2008, the exhibits annexed thereto, the accompanying Memorandum of Law in Support of Defendants' Motion to Strike, and all the pleadings and proceedings heretofore had herein, Defendants Consist Software Solutions, Inc. f/k/a Consist International, Inc. ("Consist") and Natalio Fridman ("Fridman") (collectively, "Defendants"), by their undersigned counsel, Duane Morris LLP, will move this Court, before the Hon. Colleen McMahon, United States District Judge, at Court Room 21B of the United States Courthouse, 500 Pearl Street, New York, New York, for an order granting Defendants' motion to strike pursuant to Rule 12(f) of the Federal Rules of Civil Procedure, and for such other and further relief as the Court may deem just and proper.

2/20/08  
No response is necessary. The motion is DENIED. The parties can expect a decision on the motion for a preliminary injunction tomorrow (computer access having been restored).  
Colleen McMahon  
USDS

Dated: New York, New York  
February 19, 2008

## DUANE MORRIS LLP

By: /s Hyman L. Schaffer

Hyman L. Schaffer

Fran M. Jacobs

Gregory P. Gulia

Brian Damiano

1540 Broadway

New York, New York 10036

Telephone: (212) 692-1000

Facsimile: (212) 692-1020

*Attorneys for Defendants*

TO: BAKER & McKENZIE LLP  
1114 Avenue of the Americas  
New York, New York 10036  
Telephone: (212) 626-4100  
Facsimile: (212) 310-1600  
*Attorneys for Plaintiffs*